

General Information Letter: No subtraction modification is allowed unless expressly provided by statute.

January 5, 1999

Dear:

This is in response to your recent letters to xxxxx xxxxxx, the latest of which is dated November 23, 1998, in which you request a ruling. The nature of your letter and the information you have provided require that we respond with a General Information Letter which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 86 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter you have stated the following:

In response to your November 4, 1998 letter we previously noted it was not necessary to deduct a loss carryforward on the above return. The personal deductions and exemptions obviated the need to do so.

Per your suggestion, we would be happy to seek "official notification" from your Legal Department. Please provide us with the name of an attorney in that Department with whom we may discuss this matter.

Response

From this letter and from reading previous exchanges between you and Ms. xxxxxx of this Department, it appears that you were unable to take advantage of certain losses on your 1996 federal income tax return, but that you would like to deduct them from the taxable income on your 1996 Illinois individual income tax return. As Ms. xxxxxx has indicated, this is not legally possible. Line 9 on IL-1040 is for making only those specifically enumerated categories of subtractions described in the instructions to IL-1040 and authorized by the Illinois Income Tax Act (IITA) at Section 203(a)(2)(E-V).

No other subtractions are permitted. I direct you to IITA Paragraph 203(h), which states: "Except as expressly provided by this Section there shall be no modifications or limitations on the amounts of income, gain, loss or deduction taken into account in determining gross income, adjusted gross income or taxable income for federal tax purposes for the taxable year, or in the amount of such items entering into the computation of base income and net income under this Act for the taxable year, whether in respect of property values as of August 1, 1969 or otherwise."

The subtraction you have tried to make on Line 9 is not permitted under Illinois tax law. If you cannot use the loss to reduce federal Adjusted Gross Income in any year, then it may simply have to expire as an offset to income. Please consult with federal authorities in that regard. In the meantime, I understand that Department collection actions have already begun on this assessment, which is a correct one and which should be paid promptly to avoid imposition of further penalties and interest.

As stated above, this is a general information letter which does not constitute a statement of policy that applies, interprets or prescribes the tax laws, and it is not binding on the Department. If you are not under audit and you wish to

obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Sincerely,

Kent R. Steinkamp
Staff Attorney -- Income Tax